

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHAEL STEPHEN KAYS, P.A.

Physician Assistant
License Number PA-21494,

Respondent.

Case No. 950-2016-001168

OAH No. 2017061250

**ORDER OF RECONSIDERATION AND REMAND
TO ADMINISTRATIVE LAW JUDGE**

Procedural History

On June 1, 2017, an Accusation was filed against Respondent Michael Stephen Kays, P.A. ("Respondent") by Complainant Maureen L. Forsyth, Executive Officer for the Physician Assistant Board ("Board"). The matter was heard before Roy W. Hewitt, Administrative Law Judge, Office of Administrative Hearings, on July 17, 2017, in San Diego, California. The matter was submitted for decision on July 17, 2017, and a Proposed Decision was issued on August 15, 2017.

On September 1, 2017, the Board adopted the Proposed Decision with an effective date of September 29, 2017. Complainant filed an Application to Correct Mistake or Error in Decision under Government Code section 11518.5 with the Board on September 19, 2017, alleging paragraphs 1 to 8 of the Factual Findings in the Proposed Decision do not pertain to Respondent, but rather to another individual (see attached). Section 11518.5 of the Government Code, subdivision (d), states, that the Board may on its own motion correct a mistake. Any modification "shall be made within 15 days after issuance of the decision." Complainant's request is therefore not timely, but for the following reasons, it is also moot.

Government Code section 11521 permits the Board to order reconsideration of all or part of a case on its own motion and authorizes the Board to assign that reconsideration to an administrative law judge. Further, "[a] reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517." (Gov. Code, § 11517, subd. (b).)

Pursuant to Government Code Section 11521, the Board on its own motion hereby orders reconsideration of its decision in this matter. This order is necessary to examine Complainant's allegation that Factual Findings 1 to 8 do not pertain to Respondent.

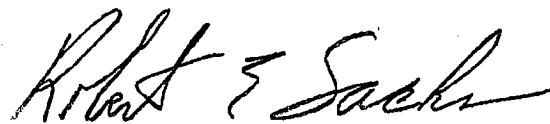
Order

The Board hereby remands this case back to the Office of Administrative Hearings to assign an administrative law judge for reconsideration of this case and further action. Such further action shall include the following:

- A) allow the parties to present evidence regarding whether Paragraphs 1 to 8 of the Proposed Decision's Factual Findings should be revised or struck;
- B) if the administrative law judge finds that Paragraphs 1 to 8 should be revised or struck, make any new findings regarding respondent that the administrative law judge deems appropriate; and,
- C) reconsider the penalty in light of any new findings the administrative law judge makes.

The Administrative Law Judge shall forward his or her revised Proposed Decision to the Board for decision and action. Respondent shall remain suspended and shall not practice medicine in the State of California pursuant to the May 12, 2017 Interim Suspension Order; that Order shall remain in place pending further court order or Decision by the Board.

IT IS SO ORDERED this 26th day of September, 2017.

A handwritten signature in black ink, appearing to read "Robert E. Sachs", written over a horizontal line.

Robert Sachs, P.A.
President
Physician Assistant Board